

**TENTATIVE RULINGS for CIVIL LAW and MOTION**  
**August 17, 2009**

Pursuant to Yolo County Local Rules, the following tentative rulings will become the order of the court unless, by 4:00 p.m. on the court day before the hearing, a party requests a hearing and notifies other counsel of the hearing. To request a hearing, you must contact the clerk of the department where the hearing is to be held. Copies of the tentative rulings will be posted at the entrance to the courtroom and on the Yolo Courts Website, at [www.yolo.courts.ca.gov](http://www.yolo.courts.ca.gov). If you are scheduled to appear and there is no tentative ruling in your case, you should appear as scheduled.

Telephone number for the clerk in Department Fifteen: (530) 406-6942  
Department One: (530) 406-6888

## TENTATIVE RULING

**Case:** **Baggarly v. DR Horton, Inc.**  
**Case No. CV CV 07-2737**

**Hearing Date:**            **August 17, 2009**                            **Department Fifteen**            **9:00 a.m.**

**Plaintiffs' Motion To Compel Further Responses to Discovery Requests:**

Plaintiffs' motion to compel further responses to the second set of special interrogatories, numbers 1-5 and the second request for production of documents, numbers 2-3 is **GRANTED**. Defendants shall take "reasonable steps: to notify the relevant third parties of the pendency and nature of this proceeding. The third parties shall be given two weeks from the date of service of the notice to assert their interests by objecting to the disclosure, by seeking an appropriate protective order, or by instituting other legal proceedings to limit the scope or nature of the matters sought to be discovered. (*Valley Bank of Nevada v. Superior Court* (1975) 15 Cal.3d 652, 654.) No party is to contact the identified third parties, other than as noted above, before the time period to object has expired. Defendants shall serve further responses and all responsive documents, within two days after the time period to object to the disclosure has expired. Defendants' request to limit the disclosure of third party information to those purchasers who worked in the same Western Pacific Housing Division as Mr. Baggary and Norman Vuylsteke is **DENIED**.

Plaintiffs' request for sanctions is **GRANTED**. (Code Civ. Proc., §§ 2023.010 et seq., 2030.300, subd. (d) & 2031.310, subd. (d).) Defendants and their counsel shall pay plaintiffs \$7,500.00 by September 10, 2009.

**Defendants' Motion to Compel Deposition Testimony of Plaintiff James G. Baggary:**

Defendants' motion to compel James Baggarly's deposition is **GRANTED**. James Baggarly shall attend a further deposition to answer questions concerning any DR Horton generated report(s) or other documents that James Baggarly referred to in his deposition testimony that shows the dates the options were being added in. (Deposition of James Baggarly, pp. 133:14-139:6.)

Defendants' request for sanctions is **GRANTED**. (Code Civ. Proc., §§ 2023.010 et seq.) Plaintiffs and their counsel shall pay defendants \$3,000.00 by September 10, 2009. As the attorney time spent preparing the reply and attending the hearing were estimated and prospective, those attorney's fees are not included.

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312, or further notice is required.

#### **TENTATIVE RULING**

**Case:** **The Humane Society of the United States v. The Regents of the University of California, et al.**  
**Case No. CV PT 08-2337**

**Hearing Date:** **August 17, 2009** **Department One** **1:30 p.m.**

The Court has reviewed the entire file, including all of the briefs filed, the Court's tentative rulings and orders, and the order of reference dated April 13, 2009. The Court hereby exercises its inherent authority to correct its April 13, 2009, order of reference as follows. (*Le Francois v. Goel* (2005) 35 Cal.4<sup>th</sup> 1094, 1107.)

The paragraph that appears on page 2, lines 17 through 21 of the order of reference is stricken and is replaced by the following:

Petitioner claims that the egg and/or poultry industry improperly influenced the conduct or result of the study entitled "Economic Effects of Proposed Restrictions on Egg-laying Hen Housing in California," published by the AIC in July, 2008. The Special Master shall review *in camera* all documents the respondent is withholding from the petitioner and group the documents into three stacks: (1) documents showing no influence by the egg and/or poultry industry, (2) documents showing improper influence by the egg and/or poultry industry, and (3) documents showing influence (but not improper influence) by the egg and/or poultry industry.

An egg farmer who provides raw data to a researcher, such as data concerning costs of production, would likely affect or influence the results of a study. An egg farmer who provides a researcher the name of a source for particular data or information about innovations or trends within the industry may also influence a study. None of the above conduct, however, constitutes improper influence.

In contrast, a *quid pro quo* offer is improper influence. An egg farmer's directive that the researcher must interpret the data in a particular manner could constitute improper influence. Additionally, depending upon the particular circumstances, editorial comments by an egg farmer could also constitute improper influence.

A close examination of the facts surrounding the statements made is required to determine whether influence is improper or not.

### TENTATIVE RULING

**Case:** **Morgan v. Ramirez**  
**Case No. CV PM 07-2856**  
**Hearing Date:** **August 17, 2009** **Department Fifteen** **9:00 a.m.**

Plaintiff's unopposed motion to compel further responses to plaintiff's form interrogatories, set two, plaintiff's requests for admissions, set one, and plaintiff's form interrogatories, set three, is **GRANTED IN PART** as follows:

Plaintiff's unopposed motion to compel further responses to form interrogatories, set three, numbers 16.3, 16.4 and 16.5 is **GRANTED**. Defendant failed to identify each injury and service he contends is unrelated to the accident or is unreasonable as required in subpart (a). Defendant is to provide further responses to form interrogatories, numbers 16.3, 16.4 and 16.5 in as complete and straight forward a manner as the information reasonably available to him permits. (Code Civ. Proc., § 2030.220, subd. (a) and 2030.300, subd. (a)(1).) All other requests to compel further responses to plaintiff's discovery requests are **DENIED**. (Code Civ. Proc., § 2030.220, subd. (a).)

Plaintiff's request for sanctions is **DENIED**.

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312, or further notice is required.

### TENTATIVE RULING

**Case:** **5R Partners, LLC v. Max Mart, et al.**  
**Case No. CV CV 09-248**  
**Hearing Date:** **August 17, 2009** **Department Fifteen** **9:00 a.m.**

Plaintiff/cross-defendant 5R Partners, LLC's demurrer to the first cause of action for breach of contract in the cross-complaint is **OVERRULED**. (Code Civ. Proc., § 430.10, subd. (f).)

Plaintiff/cross-defendant 5R Partners, LLC's demurrer to the second cause of action for promissory estoppel in the cross-complaint is **SUSTAINED WITH LEAVE TO AMEND**. (Code Civ. Proc., § 430.10, subd. (e); *Youngman v. Nevada Irrigation Dist.* (1969) 70 Cal.2d 240, 249-250.) It is only where the reliance is unbargained for that there is room for application of the doctrine of promissory estoppel. (*Id.* at p. 250.) The cross-complaint fails to state facts sufficient to state a cause of action for promissory estoppel since, the cross-complaint contains facts that the oral agreement was bargained for. (Cross-Complaint ¶¶ 7-12.)

If no hearing is requested, the tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.

**TENTATIVE RULING**

**Case:**                    **People v. \$11,341.00**  
                              **Case No. CV PT 09-2007**

**Hearing Date:**      **August 17, 2009**                    **Department Fifteen**                    **9:00 a.m.**

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The People are directed to appear and advise the Court whether they intend to file a petition for forfeiture and of any related criminal action. A judgment of forfeiture against the claimant requires, as a condition precedent thereto, that a defendant be convicted in an underlying or related criminal action of an offense specified in section 11470, subdivision (f) which offense occurred within five years of the seizure of the property subject to forfeiture or within five years of the notice of intent to seek forfeiture. (Health and Safety Code, § 11488.4, subd. (i)(3).)

**TENTATIVE RULING**

**Case:**                    **People v. \$1082.00**  
                              **Case No. CV PT 09-2006**

**Hearing Date:**      **August 17, 2009**                    **Department Fifteen**                    **9:00 a.m.**

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The People are directed to appear and advise the Court whether they intend to file a petition for forfeiture and of any related criminal action. A judgment of forfeiture against the claimant requires, as a condition precedent thereto, that a defendant be convicted in an underlying or related criminal action of an offense specified in section 11470, subdivision (f) which offense occurred within five years of the seizure of the property subject to forfeiture or within five years of the notice of intent to seek forfeiture. (Health and Safety Code, § 11488.4, subd. (i)(3).)